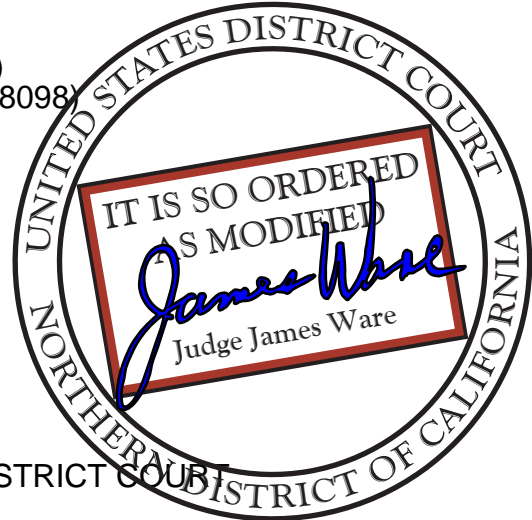


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10 Attorneys for CITY OF SAN JOSE



11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 JUAN DIAZ, KEITH KEESLING,  
15 CHRISTOPHER MURPHY, GARY  
16 WEEKLEY, KAREN ALLEN and other  
17 employees similarly situated,

18 Plaintiffs,

19 v.

20 CITY OF SAN JOSE,

21 Defendant.

Case Number: C07-06424 JW  
Case Number: C08-02132 JW

**JOINT STATUS STATEMENT  
AND ORDER CONTINUING  
STATUS CONFERENCE RE:  
SETTLEMENT**

22 Pursuant to the Court's January 26, 2010 Order Continuing Status Conferences, the  
23 parties hereby submit the following Joint Status Statement. As this Court is aware, this is a  
24 Fair Labor and Standards Act case in which the Plaintiffs are asserting, based on several  
25 different theories, that Defendant City of San Jose has not paid Plaintiff firefighters overtime  
26 consistent with the Fair Labor and Standards Act for the last several years. The City denies  
27 these allegations.

28 As reported in the parties' last joint status conference, the parties believe they have  
reached a settlement agreement in principle, subject to proper authorization. The parties  
have continued to meet and confer regarding the details of the settlement terms, and believe

that most if not all major issues have been resolved. On Tuesday, March 30, the matter will be heard by the City Council in closed session. The parties will then finalize a Settlement Agreement, a process which has already begun and is nearly completed, and will agree to a Stipulated Judgment, as mandated in FLSA cases. The parties also anticipate that this matter will need to be posted on an open session City Council agenda for final approval, pursuant to the City's "sunshine" rules.

In light of the current status of this case, the parties jointly request a 60 day continuance of the Status Conference to allow them an opportunity to take the necessary steps to have this matter finalized. Should a settlement be finalized prior to the continued Status Conference, the parties ask that this matter be dismissed at that time and that the Status Conference be taken off calendar.

Dated: March 29, 2010

RICHARD DOYLE, City Attorney

By:                     /S/                      
ROBERT FABELA  
Sr. Deputy City Attorney

Attorney for Defendant CITY OF SAN JOSE

Dated: March 29, 2010

WYLIE, McBRIDE, PLATTEN & RENNER

By:                     /S/                      
CAROL L. KOENIG

Attorneys for Plaintiffs JUAN DIAZ, KEITH  
KEESLING, CHRISTOPHER MURPHY,  
GARY WEEKLEY and KAREN ALLEN

#### ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

I attest that concurrence in the filing of this document by the signatories, Robert Fabela and Carol Koenig, has been obtained, and that a record of the concurrence shall be maintained at the Office of the City Attorney.

Date: March 29, 2010

By:           /s/ Robert Fabela            
ROBERT FABELA


1 \*\*\* ORDER \*\*\*

2 Although the Court had previously warned the parties regarding the timeliness of their filings, it  
3 appears that the parties have once again failed to adhere to the Court's Orders. The Court's January  
4 26, 2010 Order required that the parties' Joint Statement be filed on or before March 26, 2010 (Docket  
5 Item No. 51); however, the parties did not file their Joint Statement until March 29, 2010. (Docket  
6 Item No. 52.)

7  
8 Based on the representation that the City Council voted on the Settlement Agreement on March  
9 30, 2010, the Court GRANTS a brief continuance to allow the parties to finalize their Settlement  
10 Agreement. The Court continues the Status Conference from April 5, 2010 to **May 24, 2010 at**  
11 **10 a.m.** On or before **May 14, 2010**, the parties shall their Joint Statement or Stipulated Judgment for  
12 the Court's approval.  
13

14 Failure to timely file the required statement may result in monetary sanctions for both parties.  
15

16  
17 Dated: March 31, 2010

18   
19 JAMES WARE  
20 United States District Judge  
21  
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